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OFFICE FOR PROJECT SERVICES

REPORT OF THE EXECUTIVE DIRECTOR OF THE OFFICE FOR PROJECT SERVICES ON WAYS OF ESTABLISHING THE OFFICE AS A SEPARATE AND IDENTIFIABLE ENTITY

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I. BACKGROUND AND PURPOSE

1. The present report, which has been prepared pursuant to Executive Board decision 94/12, and further to the report of the Secretary-General on the Office for Project Services (DP/1994/52), proposes modalities for establishing OPS as a separate and identifiable entity.

2. In order to distinguish between the current OPS operating from within UNDP and the "new" OPS, the report refers to the latter as the United Nations Office for Project Services (UNOPS). It is proposed that as of 1 January 1995, UNOPS shall be based on the following principles:

(a) It shall be a separate and identifiable entity under the overall policy guidance and supervision of the UNDP Executive Board, operating transparently in partnership with UNDP and other operational entities;

(b) It shall be headed by an Assistant Secretary-General/Executive Director reporting to the Secretary-General and to the Executive Board through a Management Coordination Committee;

(c) It shall undertake implementation activities for UNDP, other United Nations operational entities, and others who wish to utilize its services, and who may participate in a users advisory group;

(d) It shall employ operational modalities that enhance its effectiveness, responsiveness to the needs of its clients, and ability to operate in a business-like manner and on a self-financing basis;

(e) It shall continue to utilize and endeavour to increase the use of recognized technical expertise readily available in United Nations system entities;

(f) It shall continue to work at country level through the UNDP field network; and

(g) It shall, to avoid the establishment of a new and separate administrative apparatus, rely on administrative support provided by UNDP as a reimbursable service.

II. ROLE OF UNOPS

3. OPS has been recognized both by the Executive Board and by the Governing Council, which have regularly examined the role of the Office during its 20 years of project implementation, and by its clients, from whom demand has increased consistently, as a flexible, innovative, and effective instrument for the provision of services to developing countries that complements the capacities found elsewhere in the United Nations system. During this time, OPS has developed a distinctive management culture whose characteristics will be passed on to UNOPS:

(a) Added value. This value is rooted in UNOPS managerial know-how in areas such as multisectoral projects, reconstruction and rehabilitation; in its cost-effectiveness and innovativeness in project implementation; in its links to the private sector and experience in contracting; and in its administrative skills and speed;

(b) Quality. Whether involved in a single administrative action or in the management of a complex project, UNOPS will strive to marshal the most competent and state-of-the-art inputs appropriate to produce the stipulated project outputs;

(c) Transfer of expertise. In the context of the overall effort of the United Nations to strengthen national capacity, UNOPS will seek to assist in the development of management and implementation capacity in local institutions. This transfer of know-how will be supported through UNOPS implementation of components built into individual programmes/projects, through specially designed projects that aim to build local capacities, and through decentralization strategy of UNOPS itself, which will place project managers and implementation specialists in much closer operational contact with local institutions and staff.

UNOPS services

4. UNOPS is a demand-driven, client-oriented entity that provides a variety of services:

(a) Comprehensive project management, including contracting for technical expertise and backstopping;

(b) Implementation of components of projects under execution by other organizations of the United Nations system or by national institutions;

(c) Project supervision and loan administration on behalf of international financial institutions; and

(d) Management services for multilateral, bilateral, and beneficiary-financed projects.

5. UNOPS provides services in the context of:

(a) Interdisciplinary and multipurpose programmes/projects;

(b) Programmes/projects that do not fall within the competence of any individual United Nations specialized agency; and

(c) Individual programmes/projects that emphasize general management and direction.

Unlike specialized agencies, which possess institutional technical competence, UNOPS functions as a management contractor on behalf of the client, setting in motion and managing the project actors and the needed inputs of expertise and equipment.

6. UNOPS provides programme/project inputs of the following types:

(a) Recruitment and administration of project personnel;

(b) Procurement of equipment, supplies and commodities;

(c) Management of training activities and fellowships; and

(d) Contracting of consulting firms and contractors for services and works.

7. To respond to the needs of a broader range of clients, UNOPS expects to develop service offerings that improve its partnership with other entities of the United Nations system, most notably the specialized agencies.

The UNOPS clientele

8. The UNOPS clientele shall include:

(a) Recipient Governments, as beneficiaries of international development cooperation;

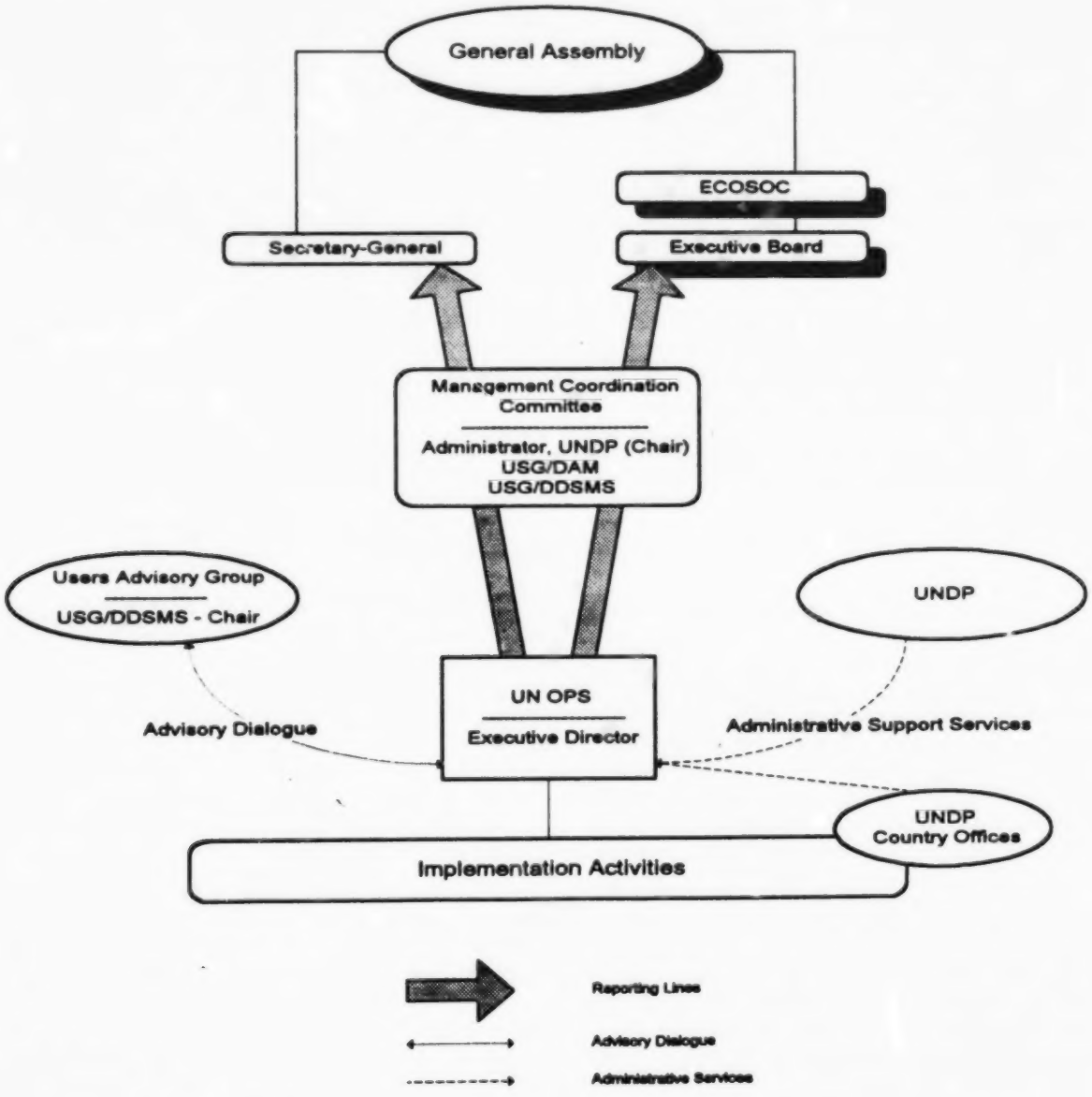
(b) Funding sources, including, but not limited to: UNDP (and the funds that it administers or acts as trustee), the United Nations International Drug Control Programme (UNDCP), the International Fund for Agricultural Development (IFAD), international financial institutions, and bilateral donors;

(c) Other organizations that are or become part of the United Nations system; and

(d) Governmental, intergovernmental, and non-governmental organizations (NGOs)/entities not part of the United Nations system.

III. STRUCTURE AND MANAGEMENT MECHANISMS

9. The chart below portrays UNOPS and its relationship with the entities involved in governing, servicing, and advising it. Overviews of each entity's role are found in the paragraphs following.



10. The Executive Board is the intergovernmental governing body that provides overall policy guidance for and supervision of UNOPS. As and when appropriate, the Board obtains approvals or endorsements of its decisions from other United Nations bodies, including the General Assembly, its Committees, and the Economic and Social Council.

11. The Secretary-General provides oversight and guidance, as required, to ensure the implementation of the decisions of the Executive Board. As Chairman of the Administrative Committee on Coordination (ACC), he will also facilitate coordination between UNOPS and United Nations system organizations.

12. The Management Coordination Committee (MCC) assists the Secretary-General in the exercise of his responsibilities. The role and functions of MCC are contained in the report of the Administrator (DP/1994/61).

13. The Executive Director, under the authority of the Secretary-General, is responsible for the management of UNOPS. The Executive Director reports to the Secretary-General and to the Executive Board through MCC, and represents UNOPS at meetings of the Executive Board.

14. The Users Advisory Group (UAG) ensures that UNOPS is fully aware of the concerns of United Nations organizations and others who utilize its services and makes appropriate recommendations to the Executive Director. The UAG terms of reference are contained in addendum 1 to the present document.

15. UNDP, both headquarters and country offices, continues as an important partner of UNOPS and as a provider of administrative support services.

IV. OPERATIONAL MODALITIES

16. UNOPS will be established, effective 1 January 1995, operating under the legal framework of the UNDP basic assistance agreements with Governments, as well as the Convention on the Privileges and Immunities of the United Nations, with the capacity to enter into contracts, institute legal proceedings, and acquire and dispose of movable and immovable property. The financial and personnel modalities of UNOPS proposed hereunder have been developed respecting the principles elaborated in paragraph 2 above.

A. Finance and procurement

17. The financial regime governing the activities of UNOPS shall be based on the Financial Regulations and Rules of UNDP, as amended through a new annex thereto, which shall be approved by the Executive Board. In paragraph 10 (c) of its decision 94/12, the Board calls for proposals regarding "any necessary revision of the financial and procurement rules of the United Nations Development Programme as they apply to the Office for Project Services ...". The joint UNDP-OPS working group on this subject recognized that establishment of UNOPS as a separate and identifiable entity cannot be accomplished without some changes also to Regulations relevant to the operational activities of

UNOPS. The draft of the annex, incorporating the necessary changes, is provided in addendum 2 to the present document.

18. The proposed annex is concurrently being provided to the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and to the Office of Legal Affairs for their substantive review and endorsement with regard to conformity with decision 94/12, compatibility with the United Nations legal framework within which UNOPS is to operate, and proper drafting. Should the review confirm that no substantial changes are required, it is requested that the Executive Board authorize the application of the proposed Regulations and Rules, as contained in addendum 2 to the present document, until it promulgates a final text. Paragraphs 19 to 46 highlight the normative principles underlying such an annex to the Financial Regulations and Rules of UNDP.

UNOPS activities

19. The proposed new Article VIII of the Financial Regulations applicable to UNOPS provides that UNOPS activities shall be founded on the self-financing principle. Appropriate arrangements will be made under which UNDP will provide administrative services in support of UNOPS activities.

Accountability

20. UNOPS activities shall be considered separate and distinct from UNDP activities, and shall be reported as such. Consequently, the Executive Director, through MCC, and in accordance with delegated authority, shall be fully responsible and accountable to the Executive Board for all phases and aspects of UNOPS activities.

21. Authority and corresponding responsibility shall be delegated to the Executive Director.

Applicability

22. As the UNDP Regulations and Rules provide the basis for the financial regime governing UNOPS activities, any proposed future modifications thereto will have to include a review of what impact, if any, such changes will have on the proposed UNOPS annex.

23. The Executive Director may propose to MCC amendments to the Financial Rules applicable to UNOPS. Such amendments will be promulgated in accordance with the Financial Regulations and Rules, including the existing procedure, which requires that advance notice of thirty days be given to the Executive Board.

Central services

24. The Executive Director is responsible for the management of UNOPS. Central services to be performed by UNDP on behalf of UNOPS shall include, inter alia, finance (budget, accounts, treasury), personnel and audit services. Costs associated with the provision of those services shall be subject to such periodic review and adjustment as may be appropriate.

25. Any authority required by UNDP to perform the agreed services shall be entrusted to UNDP by the Executive Director.

26. Services currently rendered by the United Nations in the areas of legal, payroll, security and medical services, etc., which are billed to UNDP shall be reimbursed by UNOPS to UNDP on a pro rata basis.

27. For the current biennium, UNOPS shall budget for reimbursement to UNDP the equivalent of 14 per cent of its "net" administrative expenditures, i.e., expenditures excluding amounts reimbursed for central services.

UNOPS accounts

28. UNOPS shall have its own set of accounts (General Ledger, Administrative Budget, and Programme Expenditures) and shall utilize UNDP administrative and financial systems for the recording of its transactions.

29. The unspent income that has accrued to UNOPS through 31 December 1994 shall be transferred to the UNOPS Account in its entirety. As of 31 December 1993, this amount totalled $9.2 million.

30. UNOPS shall no longer distinguish between and report separately on "budgetary" and "extrabudgetary" income and expenditure, as these terms are relevant for UNDP only. UNOPS shall have only income and expenditure with no further distinction.

31. Vouchers for the recording of UNOPS financial transactions shall be prepared by UNOPS staff and shall be certified and approved by UNOPS officials designated by the Executive Director. The list of these officials shall be provided to the UNDP Division of Finance and updated as necessary.

32. The financial statements of UNOPS shall be prepared by UNOPS and certified by the Executive Director. UNOPS financial statements shall be presented to the Executive Board separately from those of UNDP and shall contain reports on the results of all UNOPS financial activities in a comprehensive and transparent manner.

Reserve

33. UNOPS shall establish a Reserve funded from the unspent income transferred to the UNOPS account, at a level to be set by the Executive Board. The purpose of the Reserve is to cover potential liabilities such as those associated with UNOPS personnel contracts financed from the UNOPS account, shortfalls in income or in cash flow, and project-related professional and contractual liabilities. UNOPS needs to obtain further information regarding the risks and liabilities related to its new status from which to make sound financial recommendations to the Executive Board. Consequently, UNOPS undertakes to:

(a) Review and quantify risks and liabilities to which the new entity may be susceptible, on the basis of which a recommendation will be made to the Executive Board on the requisite level of the Reserve;

(b) Set aside, until such time as the Reserve has been formally established, the sum of $5 million to serve as a de facto reserve.

34. In the event that the UNOPS Reserve should require replenishment and/or increased funding, funds will be derived from unspent income.

35. Accumulated unspent income over and above that required for the Reserve shall be available for utilization within the normal budget proposal and approval process.

Budget

36. UNOPS shall finance its administrative expenditures entirely with the income it earns.

37. In future bienniums, the Executive Director shall prepare and submit the UNOPS administrative budget estimates, via MCC, to ACABQ for review and to the UNDP Executive Board for approval. The first revision of the OPS 1994-1995 budget estimates is, however, still presented as part of the UNDP revised budget estimates for the biennium 1994-1995 (DP/1994/35). Addendum 3 to the present report provides a breakdown of the revised estimates for information only.

38. The Executive Director shall have the authority to incur unforeseen personnel and related administrative expenditures against unspent and/or projected income, subject to post facto approval of such actions by the Executive Board. The Executive Director shall develop and put in place internal procedures that ensure prudent and judicious application of this authority.

Audit and internal oversight

39. Internal audit services shall continue to be provided by the UNDP Division for Audit and Management Review (DAMR). UNOPS and UNDP shall jointly review the nature and level of services required of DAMR and the associated costs, including UNOPS utilization of audit arrangements already established within the framework of the regional service centres. Reports issued by DAMR shall be addressed to the Executive Director with copies to the MCC.

40. External audit arrangements applicable to UNDP shall also apply to UNOPS, with the proviso that a separate report shall be issued for UNOPS.

41. To respond further to the concern of the Executive Board and that of UNOPS itself to improve auditing, as well as to respond to the need for better monitoring and quality control that stem, inter alia, from UNOPS decentralization plans, the Executive Director shall, in consultation with DAMR, develop and put in place stronger measures of internal oversight. Among the expected results of these measures are improved follow-up and response to internal and external audit reports.

Procurement regime, including establishment of a separate contracts committee

42. Modifications to the Financial Regulations and Rules are proposed to identify responsible parties for UNOPS procurement activities, to reflect UNOPS business practices, and to take into account recent comments and observations of the External Auditors. Various procurement rules are modified, including those relating to procurement functions of UNOPS, general procurement principles, use of invitations to bid and requests for proposals, contracts committee, contract awards, and negotiated contracts.

43. The UNOPS Procurement Review and Advisory Committee (PRAC) shall be established. Its function is to render written advice to the Executive Director (serving as Chief Procurement Officer for UNOPS) on procurement actions against the UNOPS administrative and project budgets. At present no changes are foreseen to the threshold levels for submissions to the PRAC as established by UNDP.

44. The terms of reference for PRAC shall be determined by the Executive Director, drawing upon the terms of reference of the UNDP Contracts Committee and the Advisory Group on Management and Other Support Services (AGMOSS) (both of which it is succeeding), External Auditors' observations, and UNOPS business requirements.

45. Membership of PRAC shall include staff of UNOPS, UNDP, the United Nations Secretariat, and other United Nations organizations, or individuals from the private sector, as appropriate. Specialists may be invited on an ad hoc basis to provide advice when their expertise is considered necessary. PRAC shall meet regularly on UNOPS premises.

46. UNOPS shall avail itself of existing local contracts committees at UNDP country offices, or, exceptionally, establish separate local contracts committees whenever difficult access precludes the use of the country office committee, and such a committee can be constituted based on locally available United Nations system staff.

Information systems

47. UNOPS is unable to assess at the present time the full implications of the anticipated conversion of existing UNDP systems to the computer hardware/software platform provided by the Integrated Management Information System (IMIS). While UNOPS recognizes the potential advantages of utilizing systems already in use or in an advanced stage of development by UNDP, it will also look to ensure that those systems incorporate all UNOPS needs and functionalities. Consequently, UNOPS intends to participate actively in the further development of UNDP information systems, including IMIS, and to continue to assess their impact and implications.

B. Personnel

48. The joint UNDP-OPS working group on personnel matters, concentrating on personnel financed from the administrative budget, focused on the following issues:

(a) Ensuring that, as of 1 January 1995, the necessary policy and procedural framework is in place to enable UNOPS to manage and administer its human resources, with no disruption and without requiring an additional administrative apparatus;

(b) Ensuring the preservation of the contractual status, acquired rights, and entitlements of all current staff holding UNDP letters of appointment;

(c) Defining the recruitment policies and administration arrangements that will be applied to all UNOPS personnel hired after 1 January 1995;

(d) Identifying further measures in the personnel area, for subsequent formulation, that will enhance UNOPS ability to be effective and business-like.

49. Effective 1 January 1995, UNOPS is proposing a staffing table consisting of 241 posts: 91 Professional and 150 General Service. As of 1 July 1994, OPS staff includes 200 holders of unrestricted UNDP letters of appointment, and 15 with appointments restricted to service with OPS.

Authority and accountability

50. Authority in all personnel matters, with corresponding accountability, except for that retained by the Secretary-General, or, with respect to current staff holding UNDP letters of appointment, by the UNDP Administrator, shall be vested in the Executive Director through appropriate delegation of authority from the Administrator upon request by the Secretary-General. In line with this delegation, the Executive Director shall establish procedures and create such management tools as may be required to discharge his responsibility, and to ensure the cost-effective and business-like operation of UNOPS, mindful of the need to maintain the best possible working conditions for UNOPS staff.

51. The Secretary-General shall retain authority to appoint the Executive Director and staff at the D-2 level.

52. The Executive Director shall have the authority to establish, relocate, freeze and abolish posts up to and including the P-5 level. Establishment of such posts shall be subject to the projected availability of funds, and will be reported on a post facto basis to the Executive Board through MCC. Approval for the establishment of posts at the D-1 level and above shall be requested from the Executive Board via MCC.

Personnel administration arrangements applicable to all UNOPS personnel financed from the administrative budget

53. The UNOPS personnel regime shall be based on the Staff Regulations and Rules of the United Nations, within the overall framework of the United Nations common system. It shall be administered by UNDP in accordance, initially, with its policies, procedures and established practices as previously adapted for UNFPA.

54. The central services agreement specified in Financial Rule 108.3 (see para. 24 above) shall stipulate the tasks to be performed by UNDP with regard to the administration of UNOPS staff.

55. Any authority required by UNDP to perform the agreed services shall be entrusted to UNDP by the Executive Director.

56. A UNDP/UNOPS Appointment and Promotion Board and an Appointment and Promotion Panel shall advise the Executive Director with respect to appointments and promotions of UNOPS staff.

57. UNOPS shall make such modifications to the UNDP performance appraisal review (PAR) system as are required to meet its needs. The modified system shall apply to staff limited to service with UNOPS; the UNDP PAR shall continue to apply to staff members with unrestricted UNDP letters of appointment.

58. UNDP shall issue, on behalf of UNOPS, letters of appointment for new staff. Offers of appointment and letters of appointment shall stipulate the limitation of service to UNOPS and shall explicitly inform the candidate that appointment is of a fixed-term nature, not carrying expectancy of conversion to any other type of appointment.

59. All UNOPS staff shall be eligible for United Nations and UNDP training courses and for the Educational Assistance Programme of UNDP and shall have access to the UNDP Programme for Staff Assistance. UNOPS shall reimburse the United Nations or UNDP, as appropriate, on a pro rata basis for the respective services.

60. It is envisaged that the UNDP/UNFPA Staff Council shall include representation from UNOPS and shall therefore be renamed the UNDP/UNFPA/UNOPS Staff Council.

Considerations regarding current staff

61. Staff serving with OPS as of 31 December 1994 and holding UNDP letters of appointment shall continue to be governed by the terms of appointment and conditions of service specified in their letters of appointment. Their acquired rights and eligibility for reassignment within UNDP shall not be affected and UNDP shall ensure that such staff will not be disadvantaged in any way as a result of their assignment to UNOPS. Professional and General Service staff holding such appointments shall be considered internal candidates for vacancies in UNDP. The United Nations has also been requested to consider such General Service staff as internal candidates for vacancies in the United Nations.

62. Staff serving with OPS as of 31 December 1994 and holding UNDP letters of appointment restricted to service in OPS shall be governed for the remainder of their appointment by the terms and conditions of service specified in their letters of appointment. Any extension of the appointment, subject to satisfactory performance and availability of funds, shall maintain the restriction to service in UNOPS, and the related rights and entitlements shall be the same as those of staff recruited after 1 January 1995.

63. Staff currently serving in OPS on secondment to UNDP from other agencies shall continue in UNOPS for the unexpired portion of their secondment.

64. Recommendations of UNDP/UNOPS mechanisms such as the Appointment and Promotion Board, the Appointment and Promotion Panel and the Advisory Group on Special Post Adjustments, concerning currently employed staff holding unrestricted UNDP letters of appointment shall be submitted for decision by the Executive Director and subsequently the Administrator. The same shall apply to staff restricted to service with OPS for the remainder of their current appointment.

65. In order to maintain the present rotation mechanism with UNDP, the Executive Director shall be a full member of the UNDP management group deciding on reassignments. Professional staff who are mobile in regard to UNDP reassignment policy shall, upon completion of their regular term, be included in the reassignment exercise. Such staff members shall receive the compendium of vacancies approximately one year in advance of the planned reassignment in UNDP. Should reassignment not occur on that occasion, a one-year extension of their assignment to UNOPS may be agreed upon between UNDP and UNOPS, following which they shall be reintegrated in UNDP.

66. Appropriate procedures shall be developed to address the situation of UNDP staff members assigned to UNOPS and holding unrestricted letters of appointment, who, after a reasonable period of time, have not participated in the reassignment exercise.

67. Any cost that may arise in connection with separation entitlements and termination indemnities shall be shared on an equitable basis between UNDP and UNOPS. UNDP and UNOPS shall develop a mechanism for this, which shall take into consideration, inter alia:

(a) Obligations assumed by UNDP in respect of entitlements acquired by staff members prior to their having been assigned to UNOPS;

(b) Years of service in each organization.

New UNOPS staff

68. All UNOPS posts are funded from its income and consequently none can be considered "core posts" according to UNDP terminology. Therefore, appointments in UNOPS shall be made using various arrangements of specified duration, including:

(a) UNDP staff on assignment;

(b) Fixed-term contracts under the 100 and 200 Series of the Staff Rules;

(c) Short-term contracts and appointments for Activities of Limited Duration (ALDs) under the 300 Series of the Staff Rules;

(d) Secondments;

(e) Reimbursable loans.

69. In line with the established rotation mechanism, UNOPS posts requiring incumbency by personnel with a profile and experience normally found in UNDP career staff shall be included in the compendium of vacancies issued every year by UNDP. UNDP staff selected for reassignment to UNOPS after 1 January 1995 shall initially be assigned for two years. Subject to satisfactory performance and availability of funds, the assignment shall normally be extended for an additional two years in order to permit such staff to complete a regular rotational term in UNOPS.

Project personnel

70. The Executive Director shall recruit, administer, and separate project personnel at all levels, in accordance with United Nations Staff Regulations and Rules, remaining, initially, within the framework of the applicable UNDP policies.

Forthcoming proposals

71. The current proposals are expected to provide both a stable platform from which to administer the personnel of UNOPS, and some procedural enhancements, primarily through additional delegation of authority to the Executive Director. Additional proposals intended to further UNOPS ability to respond to evolving client needs will be submitted for approval in due course.

V. EXECUTIVE BOARD ACTION

72. The Executive Board may wish to:

1. Endorse the report of the Executive Director of the Office for Project Services (DP/1994/62 and Add.1-3);

2. Request the Administrator and Executive Director to implement the report;

3. Take note of the breakdown of the revised 1994-1995 budget estimates for OPS, as contained in document DP/1994/62/Add.3 and recall its decision 94/__ regarding the 1994-1995 estimates for UNDP, including OPS;

4. Approve that, in future, the Office for Project Services' biennial budget estimates be presented separately from those of the United Nations Development Programme;

5. Recommend to the General Assembly that:

(a) There be established, effective 1 January 1995, the United Nations Office for Project Services (UNOPS) as recommended by the Executive Board in its decision 94/12 of 9 June 1994, operating under the legal framework of the United Nations Development Programme basic assistance agreements with Governments as well as the Convention on the Privileges and Immunities of the United Nations, with the capacity to enter into contracts, institute legal proceedings, and acquire and dispose of movable and immovable property;

(b) The United Nations Office for Project Services shall operate under the UNDP Financial Regulations, as may be amended by the Executive Board, to take into account the requirements of the Office, including provisions to permit the Administrator to establish special financial and procurement rules for the United Nations Office for Project Services, provided that, until such time as the Executive Board promulgates modified financial regulations, the Office shall be permitted to operate provisionally under the proposed modifications to the UNDP Financial Regulations and Rules contained in document DP/1994/62/Add.2;

6. Request the Executive Director to report annually on activities of the United Nations Office for Project Services to the Executive Board, through the Management Coordination Committee.